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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,660	09/17/2003	Edward J. Bailey JR.	033625-005	3800

21839 7590 02/16/2005

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT PAPER NUMBER

3636

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,660

Applicant(s)

BAILEY, EDWARD J.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-9 is/are rejected.
- 7) ☐ Claim(s) 3 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunskole (3,443,835).

Brunskole discloses a collapsible chair comprising a seat portion 3 and left and right stanchions attached to the seat portion of the left and right sides of the seat portion. Each of the stanchions includes a bottom member 4 or anchor member having a first end adapted to be secured to a surface that supports the seating system and a second end. The stanchions also include a second member 10 having a first end adapted to the second end of the bottom member 4 at any one of a plurality of different angular relationships. “A pair of side members 10 of the frame structure 1 are pivotally connected to the anchoring members 4 by pivot pins 11” (col.2, lines 12-14). The “plurality of different angular relationships” can be seen in Figures 1 and 2. Furthermore, the bottom member and the second member of the left and right stanchions are identical.

Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavender (5,547,257).

Lavender discloses a retractable armrest comprising a seat portion 18 and a left and right stanchion attached to the seat portion on the left and right sides of the seat portion. Each

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stanchion includes a bottom member 14 having a first end adapted to be secured to a surface supporting the seating system and a second end. The stanchion also includes a second member 16 having a first end 19 adapted to be secured to the second end of the bottom member at any one of a plurality of different angular relationships (Figures 1-10). Moreover, the second end of bottom member 14 includes a first hub 26 having a protrusion 40 and the second member includes a second hub or focal point 38 having a recess 39. The recess of second member 16 is adapted to mate with the protrusion 40 of bottom member 14 at different relative angular relationships between the first hub and the second hub such that the bottom member and the second member can be secured at the different angular relationships. The bottom member is adapted to be secured, relative to the second member, at one of a plurality of angular positions between 90 degrees and 180 degrees, as seen in Figures 7-10. Furthermore, as seen in Figure 2, at least one of the left and right stanchions for one seating unit of the seating system form at least one of a right and left stanchion, respectively, for another seating unit adjacent the one seating unit.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavender (5,547,257) in view of Thatcher et al. (3,434,870).

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Lavender discloses a retractable armrest comprising a seat portion 18 and a left and right stanchion attached to the seat portion on the left and right sides of the seat portion. Each stanchion includes a bottom member 14 having a first end adapted to be secured to a surface supporting the seating system and a second end. The stanchion also includes a second member 16 having a first end 19 adapted to be secured to the second end of the bottom member at any one of a plurality of different angular relationships (Figures 1-10). However, Lavender fails to expressly disclose a family of different seating systems where the first end of the bottom member is different from another family of seating system. Yet, Thatcher discloses a stadium seating system with a bottom member of a stanchion having different first ends. Specifically, as seen in Figures 1-14, the first end of the bottom member includes a foot portion 30 for being secured to a surface, wherein each seating system has a different foot portion for adapted to different surfaces. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lavender's bottom member of the stanchion to provide different angled foot portions, as taught by Thatcher, for providing a different angled surface for adapting to a different angled surface.

Response to Arguments

3. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

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Allowable Subject Matter

4. Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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February 14, 2005


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600